

OP-21.11, "Loss of Statutory Good Time," May 1, 2004

SCDC POLICY/PROCEDURE

NUMBER:OP-21.11

TITLE:LOSS OF STATUTORY GOOD TIME

ISSUE DATE: MAY 1, 2004

RESPONSIBLE AUTHORITY: DIVISION OF CLASSIFICATION AND INMATE RECORDS

OPERATIONS MANUAL:OPERATIONS

SUPERSEDES: OP-21.11 (April 1, 2002); Change 1 (August 9, 2002)

RELEVANT SCDC FORMS/SUPPLIES: 19-29, 19-69

ACA/CAC STANDARDS:3-4094, 3-4234

STATE/FEDERAL STATUTES:South Carolina Code of Laws, Section 24-13-210

PURPOSE: To provide guidelines that specify ways in which inmates can lose and/or fail to accrue good time in accordance with state statute.

POLICY STATEMENT: In an effort to reward eligible inmates for good behavior, the Agency will utilize South Carolina Code of Laws, Section 24-13-210. To promote accountability, the Agency will ensure that inmates accrue good time in accordance with state statute.

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SPECIFIC PROCEDURES:

1. GENERAL PROVISIONS:

1.1 All inmates under the custody of the South Carolina Department of Corrections (SCDC) will be required to abide by the rules and regulations established by the SCDC. Eligible inmates who display good behavior will be granted good time for each month served in accordance with applicable state statutes.

1.2 The SCDC will ensure that inmate time is accurately computed and recorded in accordance with applicable statutes and regulations.

1.3 Disciplinary actions that result in the failure to earn, loss, and/or forfeiture of good time credits will affect an inmate's eligibility date for release and his/her participation in certain programs. Therefore, it is imperative that the policy and procedures set forth be carried out accurately and with as little time lapse as possible.

2. CATEGORIES OF GOOD TIME:

2.1 An inmate whose crime occurred on or after January 1, 1996, who is sentenced for a non-parolable offense, will receive three (3) days of good time credit for each month served unless the inmate fails to earn good time for the reasons listed in Paragraphs 3., through 3.4, below.

2.2 An inmate whose crime occurred prior to January 1, 1996, who is eligible to earn good time (who does not fall into the categories listed in 2.3, below) and the crime is a parolable offense, will receive 20 days of good time credit for each month served unless the inmate fails to earn good time for the reasons listed in Paragraphs 3., through 3.4, below.

2.3 Inmates will not be eligible to earn good time as follows:

- those serving a life sentence;
- those on Death Row;
- those sentenced under the Youthful Offender Act;
- habitual offenders sentenced under the provision of the South Carolina Code of Laws, 17-25-60;
- those sentenced for family court contempt (non-support) when the judge specifically orders they not be credited with good time;
- those sentenced under the Armed Enhancement Act; and
- those confined for civil contempt of court.

3. REASONS FOR FAILING TO EARN 3/20 DAYS GOOD TIME:

3.1 An inmate who accepts administrative resolution, pleads guilty, or is found guilty of violating an Agency rule or regulation will fail to earn 3/20 days of good time for the month during which the infraction occurred. In addition, part or all of an inmate's accrued good time may be forfeited as a result of a disciplinary hearing conviction within the guidelines set forth in SCDC Policy/Procedure OP-22.14, "Inmate Disciplinary System."

3.2 An inmate convicted in a court of law of a misdemeanor or felony committed while under the jurisdiction of the SCDC will fail to earn 3/20 days of good time for the month in which the infraction occurred. This applies to inmates who are in confinement, who are on furlough, who have escaped, or who are temporarily assigned to any non-SCDC facility while under the jurisdiction of the Agency. Since the conviction is likely to occur weeks or months after the date of the infraction, when an inmate returns to an SCDC institution or Designated Facility after being convicted of a misdemeanor or felony charge by a court of law, the Warden or designee will ensure that a DISCIPLINARY transaction is entered into the Offender Management System by submitting notification in writing to the Division of Operations. (NOTE: If the inmate was assigned to a Designated Facility, the Division Director of Classification and Compliance or designee will be responsible for this transaction.)

3.3 An inmate found guilty of violating any condition of a Supervised Furlough Agreement by a Department of Probation, Parole, and Pardon Services (DPPPS) Revocation Board may fail to earn good time for the month in which the violation occurred. The DPPPS will forward the results of the revocation hearing to the Division Director of Classification and Inmate Records or designee who will determine if the failure to earn good time is warranted and is appropriately entered in the Offender Management System. The failure to earn good time will be limited to the number of good time days the inmate would normally be awarded in that month.

3.4 An inmate who escapes from confinement while under the jurisdiction of the SCDC will fail to earn good time until s/he is received by SCDC and is under SCDC jurisdiction.

4. DISCIPLINARY INFRACTION:

4.1 When an inmate accepts administrative resolution pursuant to SCDC Policy OP-22.14, "Inmate Disciplinary System," the incident is entered into the automated system as a "Guilty" and "Convicted" disposition. The inmate will automatically fail to earn good time for that month.

4.2 When an inmate pleads guilty before a Hearing Officer or is found guilty, the Hearing Officer will be responsible for completing SCDC Form 19-69, "Disciplinary Report and Hearing Record," and forwarding copies of those reports of guilty findings to the appropriate Classification Caseworker. At the conclusion of the disciplinary hearing, the Hearing Officer will write the disposition, the loss of good time, and the inmate's release date on SCDC Form 19-69, "Disciplinary Report and Hearing Record." All loss of good time as a result of a disciplinary conviction and upon the Warden's review will be entered into the automated system as an immediate transaction at the institutional level.

4.3 The reviewing official may reduce the amount of lost good time recommended by the Hearing Officer. SCDC Form 19-69, "Disciplinary Report and Hearing Record," will be returned to the Hearing Officer who will enter the approved loss of good time into the automated system. The following day the new projected release date of the inmate will be reflected on the automated system. The inmate will obtain the new release information from his/her Classification Caseworker review as a result of the disciplinary conviction. The Hearing Officer will forward a copy to be placed in the institutional record, and send a copy to the Inmate Records Branch.

5. PLEADING/FOUND GUILTY PRIOR TO RELEASE/PAROLE DATE:

5.1 If an inmate pleads guilty or is found guilty by the Hearing Officer within a week of his/her scheduled maxout release, the Assistant Division Director, Inmate Records Branch or designee, must be notified via telephone and the CRT message system by the Warden or designee within 24 hours following the decision. If an inmate pleads guilty or is found guilty by a Hearing Officer within a week of his/her parole date/supervised furlough date, the Division Director of Classification and Inmate Records must be notified via telephone and the CRT message system by the Warden/designee within 24 hours following the decision.

5.2 Those inmates scheduled for release for whom a disciplinary transaction or disposition code has not been entered into the automated system, will be released. If criminal charges are to be brought against an inmate, the Warden must ensure that a warrant is obtained, and arrange to have the inmate detained in a local jail facility.

6. INMATE GRIEVANCE PROCESS:

6.1 All disciplinary convictions overturned through the appeals process will be reviewed by the Chief, Inmate Grievance Branch, or designee. It will be the responsibility of the Chief, Inmate Grievance Branch, or designee to expeditiously forward the adjustment of good time to the designated staff member in the Inmate Records Branch.

6.2 When an inmate appeals a Hearing Officer's decision, the reviewing official will inform the inmate in writing of his/her decision. The original will be forwarded to the inmate and a copy will be sent to the following:

- the appropriate institutional section for the inmate's institutional file,
- the reviewing official's file,
- the Inmate Records Branch, and
- the Hearing Officer concerned.

6.3 If any changes are made to the penalties imposed by the Hearing Officer, they must be underlined in red.

6.4 If a reviewing official decides to change a Hearing Officer's decision, the Chief, Inmate Grievance Branch, or designee will be responsible for ensuring the adjustment(s) in the DISC (disciplinary) screen of the Offender Management System and in the inmate's institutional record. The Inmate Records Branch staff will make the necessary adjustment(s) to the DISC (good time) transaction.

7. FAILURE TO EARN GOOD TIME WITHOUT A DISCIPLINARY HEARING:

7.1 Those inmates eligible to earn good time may fail to earn good time under the following conditions:

7.1.1 If an inmate is convicted of a misdemeanor or felony committed while under the jurisdiction of the SCDC, the Warden or designee will notify the Inmate Records Branch staff in writing to make the automated entry (DISC) for failure to earn good time.

7.1.2 If an inmate at a Designated Facility is charged with and convicted of a disciplinary, the Division Director of Classification and Compliance or designee will take appropriate action to prevent the inmate from earning good time during the month in which the disciplinary occurred. The Division Director of Classification and Compliance or designee will make the automated entry for minor disciplinary actions. Designated Facility Disciplinary Report (See Appendix A) will be used to document this action.

7.1.3 An inmate at a Designated Facility who is charged with committing a rules violation may agree to waive his/her appearance at a formal hearing, and may consent to the failure to earn 3/20 days of good time for the month in which the infraction occurred. In such cases, the Designated Facility Manager will complete Designated Facility Disciplinary Report (See Appendix A). Upon completion of the report, the Designated Facility Manager will sign it, have the inmate sign the report, and forward the report to the Division Director of Classification and Compliance or designee so that the action can be properly documented in the automated system.

7.1.4 If an inmate escapes from the jurisdiction of the SCDC, it will be the responsibility of the institution/center from which the inmate escaped to ensure that the entry is made in the Offender Management System (OMS). The Division Director of Classification and Compliance or designee will make the automated entry if the inmate escapes from a Designated Facility.

7.1.5 If an inmate has been removed from the Supervised Furlough Program and a decision has been made that the inmate will fail to earn good time, the Division Director of Classification and Inmate Records or designee will make the automated entry for failure to earn good time through the Agency disciplinary procedures.

7.2 Offender Management System Data Entry for Failing to Earn Good Time: Refer to the Inmate Disciplinary System "Disc" Manual for specific instructions regarding data entry.

8. FAILURE TO EARN AND LOSS OF GOOD TIME INVOLVING DISCIPLINARY HEARINGS: (Refer to OP-22.14, "Inmate Disciplinary System," for additional information.)

8.1 If the inmate's custody level is changed by the Institutional Classification Committee as a result of the Hearing Officer's action, the custody change and the date of change must be entered in the inmate's automated record at the institution where the decision is made.

8.2 Once the disciplinary transaction is completed, the Offender Management System will automatically calculate the new projected release date. This date will be available on the next day (on the "DATES" screen). (3-4094)

8.3 If the charges are dismissed or there is a finding of not guilty, the Hearing Officer will be responsible for making the necessary entries within two (2) days of completion of SCDC Form 19-69 to ensure that the disciplinary transaction is not held against the inmate, thereby removing from the record any potential loss of good time. In addition, SCDC Form 19-69, "Disciplinary Report and Hearing Record," and SCDC Form 19-29, "Incident Report," will be immediately purged from the manual record. (3-4234)

9. LOSS OF EARNED WORK, EDUCATION OR GOOD CONDUCT CREDITS PURSUANT TO SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, 24-27-200:

9.1 Pursuant to 24-27-200, a prisoner shall forfeit all or part of his earned work, education, or good conduct credits in an amount to be determined by the Department of Corrections upon recommendation of the court or administrative judge. Pursuant to South Carolina Supreme Court Opinion # 25409, filed 02/11/2002 (also known as the Wade Decision) a forfeiture of earned credits pursuant to South Carolina Statute 24-27-2000 cannot be as result of a post conviction relief hearing decision.

9.2 The taking of earned work, education, or good conduct credits shall be consistent with appropriate due process considerations.

9.3 The Hearing Officer will be responsible for holding a hearing to notify the inmate of the receipt of the court order and the Agency's obligation to carry out the court order. Inmates will be entitled to twenty-four (24) hour notice (Appendix B) of the hearing and they will be provided with the opportunity to request a counsel substitute. The inmate will be given an opportunity to be heard. The hearing will be recorded.

9.4 At the time the inmate is notified of the hearing, s/he shall be provided with a copy of this policy/procedure and the court order recommending the loss of the earned work, education, or good conduct credits.

9.5 The Hearing Officer will advise the inmate that SCDC Policy requires that 90 days of accrued credits be taken for a first violation of 24-27-200. If the inmate has less than 90 days accrued credits, the Department will take all accrued credits. In repeat occurrences, 180 days of accrued credit will be taken. If the inmate has less than 180 days accrued credits, the Department will take all accrued credits.

9.6 The Department may only take earned credits under this policy/procedure that were earned by the inmate on his present incarceration, and were earned up to the date of the court order requiring the forfeiture of earned credits. The Department, under this policy/procedure may not take earned release credits that were earned after the date of the court order.

9.7 At the conclusion of the hearing, the Hearing Officer will complete Appendix B to this policy/procedure which will provide necessary confirmation concerning the loss of earned release credit. This form will be sent to the Division Director of Classification and Inmate Records so that the loss of earned credits can be properly entered in the automated system.

9.8 Inmates may appeal the result of the hearing by filing an inmate grievance consistent with the requirements of SCDC Policy/Procedure GA-01.12, "Inmate Grievance System."

10. DEFINITIONS:

Automated Inmate Disciplinary System refers to the system designed to monitor inmate institutional infractions, which is capable of tracking infractions by type, offense date, case number, location, and disciplinary action taken.

Designated Facility refers to a city or county facility, jail, or prison camp with which the South Carolina Department of Corrections (SCDC) has an agreement to house state inmates while they are serving their SCDC sentences.

Designated Facility Manager refers to the Jail Administrator, Detention Director, Prison Camp Superintendent, or other comparable official who is responsible for the daily operations of the local detention facility.

Hearing Officer refers to an SCDC employee who presides over disciplinary hearings.

Good Time refers to a monthly reduction in the number of days an inmate must serve on his/her sentence. Good time is only awarded if the inmate is eligible to receive good time by state statute. Good time accrued during a month as well as during the inmate's entire sentence may be forfeited if the inmate is convicted of a disciplinary infraction.

SIGNATURE ON FILE

ORIGINAL SIGNED COPY MAINTAINED IN THE DIVISION OF POLICY DEVELOPMENT.

Appendix A

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Designated Facility Disciplinary Report

Case # _____ Inmate Name: _____ SCDC #: _____

Designated Facility: _____ Job Assignment: _____

Offense Date: ____/____/____ Offense Time: ____AM/PM Location of Offense: _____

Offense Code: _____ Offense Description: Attach Incident Report)

Charging Officer/Employee: _____

Date: ____/____/____ Time: ____AM/PM By (print) _____

This is to certify that I, _____, am guilty of the above charge,
_____ Inmate Name and SCDC #
which is a minor rules violation. I am hereby waiving my appearance before the Hearing Officer and
consent to the failure to earn 3/20 days of good time for the month in which the infraction occurred. Inmate
Statement:

Inmate Signature: _____ SCDC#: _____ Date: ____/____/____

Designated Facility Manager Signature: _____ Date: ____/____/____

Original to:

Division of Classification and Compliance

Copies to:

Central Record

State Classification

Institutional Record

Inmate

Appendix B

Notification to Inmate of Court Order That Requires the Inmate to Forfeit All or Part of His Earned Work, Education, or Good Conduct Credits

Part I: Notification to Inmate of Court Order and Hearing Date

Inmate Name: _____ Inmate Number: _____

Name of Judge: _____ Date of Court Order: _____

Civil Action Number: _____

Name of Hearing Officer: _____

Date Inmate Notified of Hearing: _____

Does Inmate Want Counsel Substitute? Yes/No

If Yes, Name of Counsel Substitute Assigned: _____

Date of Scheduled Hearing: _____

My signature on Part I of this form shows that I have been notified of a court order that may result in loss of earned work, educational, or good conduct credits, that I have been given a copy of the court order, and that I have been given a copy of SCDC Policy/Procedure OP-21.11 and any changes.

Inmate Signature: _____ Date: _____

Witness Signature: _____ Date: _____

Inmate must be given a copy of this form when notified of the Court Order/Hearing.

Part II: Hearing Record

Date/Time of Hearing:

Name of Hearing Officer conducting the Hearing:

Name of Counsel Substitute Present (If previously requested by inmate)

Name of others present for hearing:

Number of education, work or good conduct credits Taken: 90 180 Other _____ (If inmate has less than 90 days accrued credits for a first violation or less than 180 days accrued credit for a repeat violation.)

Inmate Signature: _____ Date: _____

Hearing Officer Signature: _____ Date: _____

Inmate must be given a copy of this form upon conclusion of the Hearing.